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SENATE BILL 13-248

BY SENATOR(S) Aguilar, Heath, Jahn, Newell, Todd, Morse;
also REPRESENTATIVE(S) Priola, Salazar, Singer.

CONCERNING THE AUTHORITY OF THE ATTORNEY GENERAL OR A DISTRICT
ATTORNEY TO ENFORCE SUBPOENAS FOR CONSUMER PROTECTION
VIOLATIONS AGAINST PERSONS LOCATED OUTSIDE COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 6-1-107, **amend** (1) introductory portion as follows:

6-1-107. Powers of attorney general and district attorneys.

(1) When the attorney general or a district attorney has cause to believe that any person, WHETHER IN THIS STATE OR ELSEWHERE, has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may:

SECTION 2. In Colorado Revised Statutes, 6-1-108, **add** (3) as follows:

6-1-108. Subpoenas - hearings - rules. (3) (a) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A SUBPOENA ARE LOCATED OUTSIDE THIS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

STATE, THE PERSON SHALL EITHER:

(I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL OR DISTRICT ATTORNEY AT A CONVENIENT LOCATION WITHIN THIS STATE; OR

(II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE ATTORNEY GENERAL OR DISTRICT ATTORNEY, OR HIS OR HER DESIGNEE, TO EXAMINE THE RECORDS AT THE PLACE WHERE THEY ARE MAINTAINED.

(b) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY DESIGNATE REPRESENTATIVES, INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY.

SECTION 3. In Colorado Revised Statutes, 5-9.5-107, **amend** (1) (c) as follows:

5-9.5-107. Enforcement - investigation - penalties. (1) The administrator shall enforce this article. To carry out this responsibility, the administrator is authorized to:

(c) Make investigations; issue subpoenas to require the attendance of witnesses or the production of documents, WHICH SUBPOENAS MAY BE ISSUED TO ANY PERSONS, WHETHER LOCATED IN THIS STATE OR ELSEWHERE, WHO HAVE ENGAGED IN OR ARE ENGAGING IN ANY VIOLATION OF THIS ARTICLE; administer oaths; ~~and~~ conduct hearings in aid of any investigation or inquiry necessary to administer the provisions of this article; AND APPLY TO THE APPROPRIATE COURT FOR AN APPROPRIATE ORDER TO EFFECT THE PURPOSES OF THIS ARTICLE.

SECTION 4. In Colorado Revised Statutes, 5-10-801, **amend** (1) as follows:

5-10-801. Administrator responsibility. (1) The administrator shall enforce this article. To carry out this responsibility, the administrator shall be authorized to:

(a) Receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the administrator's own initiative;

(b) Issue and enforce cease and desist or other administrative enforcement orders in the same manner as set forth in section 5-6-109;

(c) MAKE INVESTIGATIONS; ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS, WHICH SUBPOENAS MAY BE ISSUED TO ANY PERSON, WHETHER LOCATED IN THIS STATE OR ELSEWHERE, WHO HAS ENGAGED IN OR IS ENGAGING IN ANY VIOLATION OF THIS ARTICLE; ADMINISTER OATHS; CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR INQUIRY NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE; AND APPLY TO THE APPROPRIATE COURT FOR AN APPROPRIATE ORDER TO EFFECT THE PURPOSES OF THIS ARTICLE;

~~(c)~~ (d) Counsel persons and groups on their rights and duties under this article;

~~(d)~~ (e) Establish programs for the education of consumers with respect to rental purchase agreement practices and problems;

~~(e)~~ (f) Bring a civil action to restrain a person from violating this article and for other appropriate relief in the same manner as set forth in sections 5-6-111 to 5-6-114 and for a civil penalty of up to one thousand dollars per violation; and

~~(f)~~ (g) Use any of his enforcement powers to restrain or take other action against any person found to be making or enforcing rental purchase agreements which contain any unconscionable provisions or clauses.

SECTION 5. In Colorado Revised Statutes, 12-14-130, **amend** (2) as follows:

12-14-130. Complaint - investigations - powers of administrator - sanctions. (2) For reasonable cause, the administrator may, on its own motion, conduct an investigation of the conduct of any person concerning compliance with this article. THE ADMINISTRATOR MAY ALSO ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS, WHICH SUBPOENAS MAY BE ISSUED TO ANY PERSON, WHETHER LOCATED IN THIS STATE OR ELSEWHERE, WHO HAS ENGAGED IN OR IS ENGAGING IN ANY VIOLATION OF THIS ARTICLE; ADMINISTER OATHS; CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR INQUIRY NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE; AND

APPLY TO THE APPROPRIATE COURT FOR AN APPROPRIATE ORDER TO EFFECT THE PURPOSES OF THIS ARTICLE.

SECTION 6. In Colorado Revised Statutes, 12-14.5-110.5, **amend** (1) introductory portion and (1) (b) as follows:

12-14.5-110.5. Powers of administrator of the uniform consumer credit code and district attorney - subpoenas - hearings. (1) When the administrator of the uniform consumer credit code or district attorney has cause to believe that any person, WHETHER LOCATED IN THIS STATE OR ELSEWHERE, has violated or is violating any provision of this part 1, the administrator or district attorney may, in addition to the other powers conferred upon the administrator or district attorney by this part 1:

(b) Prior to the filing of a complaint, issue subpoenas to require the attendance of witnesses or the production of documents; conduct hearings in aid of any investigation or inquiry; administer oaths; ~~and~~ examine under oath any person in connection with the sale or advertisement of goods, property, or services by any credit services organization; AND APPLY TO THE APPROPRIATE COURT FOR AN APPROPRIATE ORDER TO EFFECT THE PURPOSES OF THIS ARTICLE.

SECTION 7. Effective date. This act takes effect July 1, 2013.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO